

**UNITED STATES DISTRICT COURT**

Southern District Of California  
Office Of The Clerk  
880 Front Street, Room 4290  
San Diego, California 92101-8900  
Phone: (619) 557-5600  
Fax: (619) 702-9900

W. Samuel Hamrick, Jr.  
Clerk of Court

May 30, 2008

**E-filing**

**MHP**

United States District Court  
Northern District of California  
Phillip Burton United States Courthouse  
450 Golden Gate Avenue  
San Francisco, CA 94102-3434

**CV 08**

**-2866 (PR)**

Re: Morgan vs. Curry, Case No. 08CV0661-JAH(NLS)

Dear Sir or Madam:

Pursuant to Order transferring the above-entitled action to your District, we are transmitting herewith our entire original file (excepting said Order).

Enclosed are a certified copy of our Docket and of the Order transferring the action, the originals of which we are retaining.

Please acknowledge receipt on the copy of this letter and return. Thank you.

Sincerely yours,

W. Samuel Hamrick, Jr.  
Clerk of Court

By:   
J. Petersen, Deputy

Copy to Attorney for Plaintiffs:  
Copy to Attorney for Defendants:

RECEIVED ITEMS DESCRIBED

THIS DATE OF \_\_\_\_\_  
AND ASSIGNED CASE NUMBER \_\_\_\_\_

CLERK, U.S. DISTRICT COURT

By: \_\_\_\_\_, Deputy

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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 LOREN MORGAN,

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13 Petitioner,

14 vs.

15 BEN CURRY, Warden

16 Respondent.

Civil No. 08-0661 JAH (NLS)

**ORDER TRANSFERRING ACTION  
TO UNITED STATES DISTRICT  
COURT FOR THE NORTHERN OF  
CALIFORNIA**

17 Petitioner is a state prisoner proceeding with a habeas corpus action filed pursuant to  
18 28 U.S.C. § 2254 attacking a determination of the Board of Prison Terms. Upon reviewing the  
19 petition, the Court finds that this case should be transferred in the interest of justice.

20 A petition for writ of habeas corpus may be filed in the United States District Court of  
21 either the judicial district in which the petitioner is presently confined or the judicial district in  
22 which he was convicted and sentenced. *See* 28 U.S.C. § 2241(d); *Braden v. 30th Judicial*  
23 *Circuit Court*, 410 U.S. 484, 497 (1973). The application in the present matter attacks the denial  
24 of parole after a hearing which took place in 2005, and occurred in Soledad, California, which  
25 is within the jurisdictional boundaries of the United States District Court for the Northern  
26 District, Division. *See* 28 U.S.C. § 84(a). Moreover, Petitioner is presently confined at the

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1 Correctional Training Facility, which is located in Monterey County and is within the  
2 jurisdictional boundaries of the United States District Court for the Northern District of  
3 California. *See* 28 U.S.C. § 84(a). Thus, jurisdiction exists in the Northern District; and not in  
4 the Southern District.

5 Although this Court does not have jurisdiction over the action, “[u]nder a provision of the  
6 Federal Courts Improvement Act, 28 U.S.C. § 1631, if a court finds that there is a want of  
7 jurisdiction the court shall transfer the action to any other such court in which the action could  
8 have been brought ‘if it is in the interest of justice.’” *Miller v. Hambrick*, 905 F.2d 259, 262 (9th  
9 Cir. 1990) (citing *In re McCauley*, 814 F.2d 1350, 1351-52 (9th Cir. 1987)). The Ninth Circuit  
10 has held that transferring a habeas corpus proceeding to a district with proper jurisdiction will  
11 be in the interest of justice because normally dismissal of an action that could be brought  
12 elsewhere is “time-consuming and justice-defeating.” *Miller*, 905 F.2d at 262 (quoting  
13 *Goldlawr, Inc. v. Heiman*, 369 U.S. 463, 467 (1962)). Therefore, pursuant to 28 U.S.C. § 1631,  
14 this Court may transfer this proceeding to a district with proper jurisdiction under 28 U.S.C.  
15 § 2241(d).

16 When a habeas petitioner is challenging a parole determination, the district court of the  
17 district in the hearing was held is a more convenient forum because of the accessibility of  
18 evidence, records and witnesses. Thus, it is generally the practice of the district courts in  
19 California to transfer habeas actions challenging a parole determinations to the district in which  
20 the Petitioner the hearing was held. Any and all records, witnesses and evidence necessary for  
21 the resolution of Petitioner’s contentions are more readily available in Monterey County, which  
22 is thus a more convenient forum. *See Braden*, 410 U.S. at 497, 499 n.15 (stating that a court can,

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1 of course, transfer habeas cases to the district of conviction which is ordinarily a more  
2 convenient forum); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968).

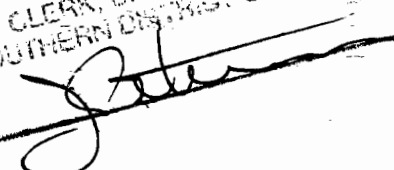
3 Therefore, in the furtherance of justice, **IT IS ORDERED** that the Clerk of this Court  
4 transfer this matter to the United States District Court for the Northern District of California.  
5 See 28 U.S.C. § 2241(d). **IT IS FURTHER ORDERED** that the Clerk of this Court serve a  
6 copy of this Order upon Petitioner and upon the California Attorney General.

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8 DATED: May 30, 2008

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11 JOHN A. HOUSTON  
12 United States District Judge  
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I hereby attest and certify that the foregoing document is a true, true and correct  
copy of the original on file in my office and in my legal  
custody.

5-30-08  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

By  Deputy

CLOSED, HABEAS

**U.S. District Court  
Southern District of California (San Diego)  
CIVIL DOCKET FOR CASE #: 3:08-cv-00661-JAH-NLS  
Internal Use Only**

Morgan v. Curry  
Assigned to: Judge John A. Houston  
Referred to: Magistrate Judge Nita L. Stormes  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 04/11/2008  
Date Terminated: 05/30/2008  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus  
(General)  
Jurisdiction: Federal Question


**Petitioner****Loren Morgan**


represented by **Loren Morgan**  
C-94621  
Correctional Training Facility  
PO Box 705  
Soledad, CA 93960-0689  
PRO SE

V.

**Respondent****Ben Curry**  
*Warden*

represented by **Attorney General**  
State of California  
Office of the Attorney General  
110 West A Street  
Suite 1100  
San Diego, CA 92101-5266  
(619)645-2076  
Fax: (619)645-2313  
Email: docketingsdawt@doj.ca.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
04/11/2008	 <u>1</u>	PETITION for Writ of Habeas Corpus (Filing Fee \$0. Not paid, submitted without IFP motion), filed by Loren Morgan.(tel) (Entered: 04/12/2008)

05/30/2008	 2	ORDER Transferring Action to United States District Court for the Northern District of California. Original file, certified copy of transfer order, and docket sheet sent. Signed by Judge John A. Houston on 05/30/08. (Attachments: # <u>1</u> transfer letter)(jpp) (Entered: 05/30/2008)
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I hereby attest and certify on 5-30-08  
that the foregoing document is a full, true and correct  
copy of the original on file in my office and in my legal  
study.

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

By  Deputy